IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 10367 of 2004

Between:

Bellamkonda Rathaiah S/o Hanumaiah
aged 61 years, R/o.Thimmayapalem Village,

Vinukonda Mandal, Guntur District

..... PETITIONER

AND

1. The District Co.operative Officer,

   Guntur District, 4/2, Arundelpet,

   Guntur.

2. The Divisional Co.operative Officer,

   Varavakatta, Narasaraopet,

   Guntur District.

3. The President/Person-In-Charge,

   Primary Agricultural Co.operative Society,

   (PACS), Thimmayapalem Village,

   Vinukonda Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction especially one in the nature of writ of Certiorari calling for the records relating to and in connection with order dt. 4/02/2004 passed in I.A.No.36/2002 in M.P No.118/2001 on the file of the Labour Court, Guntur and set

aside the same and consequently set aside the orders dt. 21/11/2001 passed in M.P.No.118/2001 on the file of the Labour court, Guntur.

For the Petitioner:MR.N.NARASIMHA RAO, Advocate

For the Respondents : MR.P.VENKATESWARLU, Advocate

The Court made the following :

ORDER:

The present writ petition is filed by the petitioner questioning the order dated 04-02-2004 passed in I.A.No.36 of 2002 in M.P.No.118 of 2001 by the Labour Court, Guntur.

It is the case of the petitioner that the Advocate and his clerk in the lower Court noted on the docket that the M.P. 118 of 2001 was posted to 22-11-2001 and accordingly the counsel for the petitioner appeared in the lower Court on 22-11-2001, but found the case listed on 21-11-2001 and the M.P.No.118 of 2001 was dismissed for default.

Thereafter, the learned counsel for the petitioner filed I.A.No.36/2002, under Order 9 Rule 9 CPC to set aside the dismissal order dated:21-11-2001, but the same was dismissed by the impugned proceedings dated:4-2-2004.

The tribunal below simply dismissed the said petition on the ground that there are no bona fides in his application and no justifiable grounds are mentioned in it. It is the mistake on the part of the learned counsel for petitioner, as well as the clerk, who noted on the docket, as if the case posted on 22-11-2001.

It is purely a mistake on the part of the learned counsel for the petitioner and his clerk, in noting down the wrong date. For the mistakes committed by the counsel or their clerks in noting a wrong date, the petitioner cannot be made to suffer loss.

Further, the presence of the petitioner is not at all required, as matter is posted on 21-11-2001 for issuing summons to the respondent-management. Therefore, the tribunal ought to have given an opportunity to the petitioner to prosecute the case. For the aforesaid reasons, the impugned order is set aside. The petition filed by the petitioner in I.A.No.36/2002 is allowed.

The Labour Court is directed to proceed further in the matter, and dispose of the case as expeditiously as possible, preferably within a period of three months from the date of receipt of this order copy.

Accordingly the writ petition is disposed of. In the circumstances no costs.

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K.C.BHANU, J

24—6--2004

LSK

To

1. The District Co.operative Officer,

Guntur District, 4/2, Arundelpet, Guntur.

2.The Divisional Co.operative Officer,

Varavakatta, Narasaraopet, Guntur District.

3.2 CCs to the GP for Cooperation, High Court Buildings, Hyderabad (OUT)

4. 2 CD Copies.

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THE HON'BLE MR JUSTICE K.C. BHANU

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Dated: 24-06-2004